IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION.

CIVIL APPLICATION NO.97 OF 2007

IN

REVIEW PETITION ST.NO.30610 of 2006

IN

WRIT PETITION NO.3361 OF 1992

Shri Arun Ramchandra Jagtap
and others : Applicants.

versus

Shri Nivrutti Vitthal Patil
and others : Respondents.

Mr.A.V.Anturkar i/by Mr.S.B.Deshmukh for the applicants.

Mrs.S.A.Mudbidri for Respondent Nos.1 and 3.

CORAM : D.G.DESHPANDE

DATED : APRIL 27, 2007.

P.C. (IN CHAMBER).

1. Heard. This is an application for condonation of delay. Notice was given to

Respondent Nos.1 and 3 who are the contesting respondents. No doubt delay can be condoned in this matter. Hence it is condoned. Application is disposed of.

2. So far as Review Petition is concerned, the question is, however, whether the review petition can be maintained. The counsel for the petitioner Mr.Anturkar has placed reliance upon the judgment of the Supreme Court in the case of **Vithal Dattatraya Kulkarni and others vs. Smt.Shamrao Tukaram Power and others reported in (1979) 3 SCC 212**. In para 8 the Supreme Court held thus :-

> "Our conclusion regarding the non-heritability of this right rests solely on our understanding of Section 40 of the Bombay Tenancy and Agricultural Lands Act as it stood before it was amended in 1956, in relation to the right under Section 37. Nothing that we have said should be understood as indicating that any other right of a tenant or this very right after the 1956 amendment is not heritable."

3. Obviously the respondents in this case are claiming right as heritable after the amendment of 1956. Original tenant died after 1956. Therefore, right becomes heritable. Hence, there is no merit in this petition. The Review Petition is dismissed.

[D.G.DESHPANDE,J]